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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,768	03/18/2004	Ralf Salameh	71027-012	6684

27305 7590 09/13/2006

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/803,768	Applicant(s) SALAMEH, RALF	
	Examiner William P. Watkins III	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: 11.
 Claim(s) rejected: 7-10 and 12-16.
 Claim(s) withdrawn from consideration: 1-6.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Attachment to Advisory Action

1. Applicant argues that there is no teaching in Santella of a engine valve cover that has a metal support element with a plastic component molded to the support element. Applicant further argues that Santella does not teach incorporation of any metal into a valve cover and only teaches a two part engine cover with a support element of high creep resistant thermoplastic resin and a body portion of high temperature thermoplastic resin and therefore teaches away from use of metal in a valve cover. Applicant states that the passage in column 2, lines 15-20, relied upon by the examiner, only teaches the injection molding of plastic onto metal and not the specific claimed structure of a seal in combination with a metallic support member and molded plastic body portion on the support member, and that therefore there is no showing of a suggestion, motivation or teaching to arrive at the instant claimed invention.

The examiner disagrees. While there is no explicit teaching of an embodiment that has a metal support element with a molded plastic body in Santella, the examiner maintains his position that the reference provides motivation to make such a

Art Unit: 1772

cover to one of ordinary skill in the art who is willing to tolerate the weight and vibration disadvantages of using metal in the support element. The background section of the reference at column 1-35 discusses at great length the fact that all metal engine valve covers and all plastic covers of a single type of plastic have been used in the past and discusses the weight disadvantage of an all metal cover and the lack of creep and high temperature resistance in covers made of glass filled nylon. The reference then goes on to describe a cover divided into a flange support element made of a type of plastic with high creep resistance and a body cover portion made of high temperature resistant plastic (col. 1, lines 60-69). The reference also describes that in general in the prior art it is known how to make two part devices that have a metal portion and a molded on plastic portion (column 2, lines 15-20).

As the reference clearly describes using a two part plastic system to optimize the weight of the engine cover while providing adequate creep strength in the flange portion, and the ability to make two part metal and plastic articles in general, it is the position of the examiner that the use of metal (which has known good creep resistance and temperature stability) as the support element in combination with a plastic body portion

Art Unit: 1772

that has lighter weight, would have been obvious to one of ordinary skill in the art who desired a lighter weight engine cover than an all metal cover, but who did not wish to use the two plastic system taught by Santella for reasons such as cost or availability of the polyetherimide resin for the support element. That Santella teaches a way of achieving the lowest weight and best noise reduction by using a two plastic system does not mean that other combinations suggested by the reference are prohibited from use by one of ordinary skill in the art. It merely means that they would be appreciated by one of ordinary skill in the art as being less than optimal. As the reference teaches the claimed limitations without the use of hindsight, the rejection is maintained.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WW/ww

September 12, 2006

WILLIAM P. WATKINS III
PRIMARY EXAMINER